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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PETER G. GRAIN, an Individual; ANNETTE
BARNES-GRAIN, an Individual;

Plaintiff,

vs.

NEVADA PROPERTY 1, LLC d/b/a THE
COSMOPOLITAN OF LAS VEGAS, a Foreign
Limited-Liability Company; DOES I through X;
and ROE BUSINESS ENTITIES I through X,
inclusive,

Defendants.

CASE NO.: 2:23-cv-02123-RFB-NJK

**STIPULATION AND ORDER TO EXTEND
DISCOVERY DEADLINES**

(Amended First Request)

Plaintiffs, PETER G. GRAIN and ANNETTE BARNES-GRAIN, and Defendants,
NEVADA PROPERTY 1, LLC d/b/a THE COSMOPOLITAN OF LAS VEGAS, by and through
their respective attorneys, do hereby stipulate to extend the discovery cutoff in the above-
captioned case for a period of ninety (90) days.

Pursuant to LR IA 6-1, the parties hereby aver that this is the first such discovery extension
requested in this matter.

I. DISCOVERY COMPLETED

1. Plaintiffs served their initial disclosures on January 3, 2024;

2. Defendant served its initial disclosures on January 24, 2024;
3. Plaintiffs served their First Set of Requests for Admission on January 24, 2024;
4. Plaintiffs served their First Set of Interrogatories on January 24, 2024;
5. Plaintiffs served their First Set of Requests for Production of Documents on January 24, 2024;
6. Defendant served its first supplemental disclosure on February 21, 2024.
7. Defendant served its Response to Plaintiff's First Set of Requests for Admission on February 23, 2024;
8. Plaintiff served his Second Set of Requests for Production of Documents on February 26, 2024.

II. DISCOVERY TO BE COMPLETED

1. The deposition of Nevada Property 1, LLC's corporate designees pursuant to FRCP 30(b)(6);
2. The deposition of Security Manager, Daniel Rokke;
3. The deposition of Executive Director of Security, Stacy Rodd;
4. The deposition of Security Officer, Charles Thorpe;
5. The deposition of Security Officer, McKay Stanley;
6. The deposition of Plaintiff Peter Grain;
7. The deposition of Plaintiff Annette Barnes-Grain;
8. The parties intend to conduct the depositions of additional fact witnesses;
9. The parties will disclose expert witnesses and depose their respective experts; and
10. The parties intend to supplement numerous expert witnesses and reports.

III. REASONS WHY THE DISCOVERY DEADLINE WAS NOT SATISFIED

The parties have worked diligently in discovery thus far, and have a cordial working relationship. However, there is important discovery that remains to be completed.

Plaintiffs filed this matter in the Eighth Judicial District Court on September 26, 2023, and Defendant served its Answer on November 13, 2023. Plaintiffs moved to exempt the matter

1 from the Court Annexed Arbitration Program on December 1, 2023, pursuant to Nev. Arb. R.
2 5(A) (requiring that a request for exemption from arbitration be filed within 20 days after the
3 filing of an answer by the first answering defendant). On December 15, 2023, the ADR
4 Commissioner granted the Request for Exemption from Arbitration. Plaintiffs served their Notice
5 of Early Case Conference on December 18, 2023, scheduling the conference for January 5, 2024,
6 which was the first date available by the parties. Discovery could not have taken place until after
7 Plaintiffs' request was decided and the parties conducted their Early Case Conference pursuant
8 to Nev. R. Civ. P. 16.1(b)(1) (parties are not required to participate in an early case conference if
9 the exemption from arbitration has been requested but not decided).

10 On December 26, 2023, Defendant petitioned for removal to the U.S. District Court (ECF
11 No. 1). The parties timely conducted the F.R.C.P. 26(f) conference on January 4, 2024 (ECF No.
12 7). This Court's Scheduling Order (ECF No. 8). placed all case deadlines from the date of
13 Defendant's filed its answer in state court, although discovery could not have been undertaken at
14 any point prior to Defendant filing its petition.

15 The parties have been diligent in conducting discovery. Plaintiffs' initial F.R.C.P. 26(a)
16 disclosure was served on January 3, 2024. On January 24, 2024, Plaintiffs served their first set
17 of interrogatories, requests for admission, and requests for production of documents on
18 Defendant. Defendant's responses to this written discovery are still outstanding. Defendant
19 requested an additional two to four weeks to provide comprehensive responses to Plaintiff's
20 written discovery requests. To date, responses have not yet been served.

21 Defendant's initial F.R.C.P. 26(a) disclosure was served on January 24, 2024, and on
22 February 21, 2024, Defendant supplemented its disclosure with the incident report for the subject
23 event, as well as sixteen new, potential witnesses. Prior to this disclosure, Plaintiffs did not know
24 the names of the security guards involved in the subject incident, and as such, could not take fact-
25 witness depositions. The parties are now scheduling the depositions of four security guards
26 around and/or involved in the subject incident: (1) Daniel Rokke, (2) Stacy Rodd, (3) Charles
27 Thorpe, and (4) McKay Stanley. The parties are also in the process of scheduling the deposition
28 of Defendant's F.R.C.P. 30(b)(6) designee.

On February 26, 2024, Plaintiffs served their Second Set of Requests for Production on Defendant. These requests seek the employment file and/or human resources file for the security guards identified in Defendant's first supplemental F.R.C.P. 26(a) disclosure, which was served on February 21, 2024.

The initial expert disclosure deadline is currently set for March 14, 2024. The remaining discovery, including depositions and production of additional documents, is necessary for both parties' experts to form complete opinions about the matters at issue. *See* Fed. R. Civ. P. 26(2)(B) (requiring retained expert witnesses to set forth "a complete statement of all opinions the witness will express and the basis and reasons for them.").

The requested extension is made in good faith, and not for the purposes of delay. Based on the foregoing, the parties submit that good cause exists to grant the requested extension.

IV. PROPOSED SCHEDULE FOR COMPLETING DISCOVERY:

	<u>EXISTING DEADLINES</u>	<u>PROPOSED DEADLINES</u>
Close of Discovery	May 13, 2024	August 12, 2024
Initial Expert Disclosures Deadlines	March 14, 2024	June 12, 2024
Rebuttal Expert Disclosure Deadline	April 15, 2024	July 15, 2024
Final Date for Dispositive Motions	June 13, 2024	September 11, 2024
Pretrial Order	July 15, 2024	October 14, 2024

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ORDER

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IT IS SO ORDERED.

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Dated: February 27, 2024


Nancy J. Koppe
United States Magistrate Judge